IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 508 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRADIPKUMAR ROSHANLAL JAIN

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner
MR BY MANKAD APP for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 21/12/2000

ORAL JUDGEMENT

The revisional petitioner by way of filing Criminal Revision Application has challenged the correctness, legality and propriety of the order dated 2-8-1999 passed by the learned Special Judge, Panchamahals, Godhara in Criminal Appeal No. 3/99.

2. In continuation of the Deputy Director (Supplies) who paid visit to the diesel pumps of the respondent on 16-7-1998, the Director (Civil Supplies), Gandhinagar passed the order u/s 6 (A) of the Act by which it was ordered to confiscate the diesel of quantity of 20453 Liters. total worth Rs.2,35,430/-. That order of confiscation was with regard to 100% quantity of the goods for which alleged contraventions were found to have been committed by the respondent. That order of confiscation was passed on 21-1-1999, on the basis of recommendation made on following four counts :

(i) That the entries were not made in the Density Register with regard to two tanks of diesel for the period from 10-7-1998 to 16-7-1998.

(ii) No entry with regard to density was made in the Density Register immediately after diesel of quantity of 12000 Liters. was unloaded in the diesel tank, on 10-7-98.

(iii) There was a difference of density on comparing with the density which was noted down on 10-7-1998 and the density which was determined for the diesel of which sample was taken on 16-7-1998. There was an adulteration of kerosene in the said diesel.

(iv) Necessary particulars with regard to opening stock and sale price were not displayed on the notice Board of 16-7-1998.

3. On reading the order dated 21-1-1999 with regard to confiscation u/s 6 (A) of the Act, it clearly appears that the Director of Civil Supplies, Gandhinagar passed the order of confiscation only on the ground of adulteration of diesel by adding the kerosene of blue colour and not for any other contravention.

4. Being aggrieved against the said order of confiscation, the respondent of Criminal Appeal No. 132/2000 pending on file of this Court preferred a Criminal Appeal No. 13 of 1999 to the Sessions Court, Panchamahals at Godhara. The learned Judge of the trial Court rendered his judgment on 2-8-1998 in Criminal Appeal No. 13/99 whereby the appeal preferred by the present respondent was partly allowed and the order of confiscation order dated 25-1-1999 passed by the

Director, Civil Supplies, Gandhinagar was modified by reducing confiscation of goods from quantity of 100% to 50%.

5. Being aggrieved against and dissatisfied with the order of confiscation so far as it relates to confirmation of 50% confiscation made by the Appellate Judge, the respondent of this Court's Criminal Appeal No. 132/2000 has preferred this Criminal Appeal No. 508/1999.

6. Mr. Prajapati learned advocate for the revision petitioner has argued that in a criminal case for the charge with regard to adulteration of diesel with the kerosene by adding a blue coloured kerosene, the competent Court has acquitted the accused. He has further agued that 100% confiscation order was passed by the Director of Civil Supplies, Gandhinagar only on the ground of adulteration and for no other contravention. When the Judge of the trial Court has already acquitted the respondent for the said charge in Special Case No. 8/99 and when the State Government has not preferred any acquittal appeal in view of Section 6 (C) (2) of the Act, now the confiscation order has become redundant and therefore it requires to be set aside.

6. The confiscation order dated 21-7-1999 passed by the Director of Civil Supplies, Gandhinagar which is at Annexure-A and the consequential judgment dated 2-8-1999 passed by the learned Judge of Special Court, Panchamahals at Godhara in Criminal Appeal No. 13/99 both are set aside, meaning thereby the order of confiscation of 100% commodity is set aside. Accordingly, Criminal Revision Application No. 508/99 is allowed. Rule is made absolute to the aforesaid extent.

7. In continuation of the order of this Court (Coram : C.K. Buch, J.) dated 26-10-1999, the State Government is ordered to return 50% amount of remaining goods for which the confiscation order was confirmed by the learned Appellate Judge to the revision petitioner of this Criminal Revision Application No. 508/99.

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/JVSatwara/